

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL CLAYTON,

Plaintiff,

v.

CHILDREN'S HOSPITAL, et al.,

Defendants,

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No. 4:15CV1177 RLW

MEMORANDUM AND ORDER

Plaintiff seeks leave to proceed in forma pauperis in this civil action under Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act. The motion is granted.

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. The Court may dismiss an action under § 1915(e) if “it is apparent the statute of limitations has run.”. *Myers v. Vogal*, 960 F.2d 750, 751 (8th Cir. 1992).

A plaintiff in a Title VII or ADA action has ninety days from receipt of the right-to-sue letter to file a civil action. 42 U.S.C. § 2000e-5(f). Failure to file a timely civil action warrants dismissal of the complaint. *E.g., Braxton v. Bi-State Development Agency*, 728 F.2d 1105, 1108 (8th Cir. 1984).

Plaintiff alleges that defendant unlawfully terminated him because of his race, because he reported harassment, and because his wife and child are disabled. Plaintiff attached a right-to-sue letter to the complaint, which was mailed to plaintiff on February 9, 2015. The ninety-day period in this case elapsed on approximately May 10, 2015. Plaintiff did not file the instant action until July 30, 2015. As a result, the complaint appears to be time-barred.

Plaintiff is directed to show cause, in writing, why this action should not be dismissed as untimely. Failure to respond to this Order or failure to show adequate cause will result in the dismissal of this case.

Accordingly

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis [ECF No. 2] is **GRANTED**.

IT IS FURTHER ORDERED that plaintiff shall show cause, in writing and **no later than twenty-one (21) days from the date of this Order**, why this case should not be dismissed as time-barred.

Dated this 3rd day of August, 2015.

A handwritten signature in black ink, reading "Ronnie L. White". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE